

Notice of Allowability

Application No.

09/784,554

Examiner

Manjunath N. Rao, Ph.D.

Applicant(s)

SCHNORR ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the paper filed on 5-24-04.
2. ☒ The allowed claim(s) is/are 33,36-40,43-47 and 50-71.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Manjunath N. Rao, Ph.D.
Primary Examiner
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DETAILED ACTION

Claims 33, 36-40, 43-47, 50-71 are currently pending and are present for examination.

Applicants' amendments and arguments filed on 5-24-04, have been fully considered and are deemed to be persuasive to overcome the rejections previously applied. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. Specifically, Examiner has withdrawn the rejection of claims under 35 U.S.C. 112, 1st paragraph as not enabled, in view of claim amendments and arguments presented by the applicant.

Election/Restrictions

Claim 33 is directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claim 71, directed to the process of using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, is now subject to being rejoined. Process claim 71 is hereby rejoined and fully examined for patentability under 37 CFR 1.104. Claim (original) 24 drawn to polynucleotide, not directed to the process of making or using the patentable product, will not be rejoined.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

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Authorization for this examiner's amendment was given in a telephone interview with Elias Lambiris on 6-8-04.

The specification has been amended as follows.

A) On page 64, line 3, delete the terms "http://"

B) On page 70, line 12, insert the following phrase as follows " (Amino acids 41-56 of SEQ ID NO:2)" after the sequence "TAKTITIKVTFKDRK".

Allowable Subject Matter

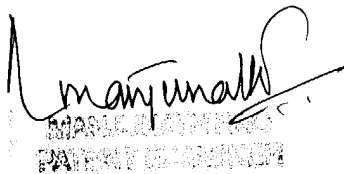
Claims 33, 36-40, 43-47, 50-71 are allowed.

The following is an examiner's statement of reasons for allowance: Following a diligent search it was determined that the prior art neither teaches nor suggests polypeptides with SEQ ID NO:2, 4, or 6 having xyloglucanase activity as claimed in claims 33, 36-40, 43-47, 50-71. Examiner has withdrawn the previous rejection of claims under 35 U.S.C. 112, 1st paragraph in view of claim amendments and persuasive arguments by the applicant. Examiner has taken the position that combining the teachings of the specification with the vast amount of information regarding the structure of this class of enzymes in the scientific literature it would be well within the skill of those practicing the art to make and use the polypeptides as claimed in the above invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Manjunath N. Rao, Ph.D. whose telephone number is 571-272-0939. The Examiner can normally be reached on 7.00 a.m. to 3.30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ponnathapura Achutamurthy can be reached on 571-272-0928. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

A handwritten signature in black ink, appearing to read 'Manjunath N. Rao', is written over a faint, rectangular stamp. The stamp contains some illegible text, possibly a date or reference number.

Manjunath N. Rao
June 8, 2004